

**REMARKS**

Applicant respectfully requests reconsideration and allowance of the subject application.

**CLAIMS**

The Office Action dated July 8, 2005 rejected claims 1-23 and 28-41. New arguments in support of patentability are provided by this response. Claims 1-23 and 28-41 are currently pending in the application.

**35 U.S.C. § 112**

In the Office Action dated July 8, 2005, claims 13, 17, and 20 are rejected under 35 U.S.C. § 112, because the Office Action indicates that the claims fail “to particularly point out and distinctly claim the subject matter which applicant regards as his invention.” The Applicant has amended claims 13, 17, and 20 in order to overcome this rejection.

For at least the above reasons, the Applicant submits that the rejection to claims 13, 17, and 20 under 35 U.S.C. § 112 is inappropriate considering the amended language of the claims, and requests that the rejection be withdrawn as to these claims.

**35 U.S.C. § 102**

In the Office Action dated July 8, 2005, claims 1-6, 12-14, 17-23, 28-31, 33-37, and 41 are rejected under 35 U.S.C. § 102, as being anticipated by Thiessen. (US Patent No. 5,495,412, hereinafter, “Thiessen.”).

The Applicant respectfully disagrees with the characterization of Thiessen in the rejection under 35 U.S.C. § 102. The characterizing language in the Office Action mirrors the language of the Applicant’s claims. While the Applicant agrees that there may be certain similarities between Thiessen and the claimed invention, the Applicant disagrees with many of the characterizations of Thiessen. To respond to the characterizations in the rejection on an element-by-element basis, the Applicant would have to describe in detail what Thiessen actually discloses for each recited characterized element of Thiessen, as compared to the claim language of the present disclosure that the

Office Action virtually quoted to describe Thiessen. Considering the scope and length of Thiessen that has been characterized using Applicant's own claim language, responding to the characterizations of Thiessen on an element-by-element basis would require a lengthy response. The Applicant will focus on certain distinctions between Thiessen and the presently claimed invention.

The Applicant further emphasizes that the present rejection is under 35 U.S.C. § 102, and as such to overcome this rejection, the Applicant is only required to provide a distinction between the claimed invention and Thiessen. The Applicant will provide several distinctions.

The preamble to claim 1, as amended, recites a method for using at least one computer to process contingent commitments relating to at least one business venture involving one or more agents. While there may or may not be structural similarities between a computer-mediated decision-making group in which multiple agents utilize contingent commitments and "a computer-based method and apparatus for assisting multiple parties involved in complex negotiations in reaching agreement that optimizes the individual and overall benefit to the parties" (Thiessen, C1, L9-13), they are simply not the same thing as required under the anticipation rejection of 35 U.S.C. § 102.

Thiessen uses linear programming techniques to arrive at a theoretically "optimal" solution. Thiessen presupposes that such a solution exists and that it can be determined in a practical amount of time by linear programming methods. However, it is known that there are many situations in which linear programming is not a suitable method.

The present invention uses "contingent commitments" to arrive at computer-mediated decisions. To determine what is meant by a contingent commitment, such as recited in the preamble and other portions of claim 1, one must consider pages 6 to 9 of the specification that describe the contingent commitment module. These pages describe a computer-mediated decision-making process. The present disclosure relates to business ventures between one or more agents. Furthermore, claim 1 includes the language, "wherein the contingent commitments include at least one modal operator or quantifier". The Applicant submits that there is no teaching in Thiessen to utilize contingent commitments, modal operators or quantifiers.

The Office Action further rejected claim 12 under 35 U.S.C. § 102 as being anticipated by Thiessen. The claim language of claim 12 contains similar, though not identical, limitations as claim 1. Therefore, for at least the reasons as described above, the anticipation rejection to claim 12 of Thiessen should be withdrawn.

Claim 14 has been rejected over Thiessen under 35 U.S.C. § 102. Claim 14, as amended, recites among other things a method for using one or more computing mechanisms by two trading parties to determine a mutually acceptable price for one or more trading items. Thiessen teaches “a computer-based method and apparatus for assisting multiple parties involved in **complex** negotiations in reaching agreement that optimizes the individual and overall benefit to the parties” (Thiessen, C1, L9-13, emphasis added) that differs fundamentally from the determining the mutually acceptable price of the present disclosure.

In particular, Thiessen uses “linear programming to solve an optimization problem for which the objective is to insure no loss in satisfaction for any party while minimizing the maximum gain achieved by any party” (Thiessen, C3, L33-36). The solution to this optimization problem is referred to by Thiessen as a “common base alternative” (Thiessen, C3, L38-39) which provides a starting point “to facilitate the negotiations” (Thiessen, C3, L40).

In contrast, the present invention does not use (or need) linear programming techniques to determine a mutually acceptable price for one or more trading items. Furthermore, the mutually acceptable price is the end point of the process of Claim 14 whereas the common base alternative derived by Thiessen is the starting point of a negotiation process. In other words, Thiessen teaches away from Claim 14 of the present invention.

Therefore, for at least the reasons as described above, the anticipation rejection to claim 14 of Thiessen should be withdrawn. Claim 28 depends from claim 14, and thereby includes the limitations of claim 14. For at least that reason, the Applicant submits that the Thiessen rejection under 35 U.S.C. § 102 to claim 28 should be withdrawn.

The Office Action further rejected claim 22 under 35 U.S.C. § 102 as being anticipated by Thiessen. The claim language of claim 22 contains similar, though not

identical, limitations as claim 14. Therefore, for at least the reasons as described above, the anticipation rejection to claim 22 of Thiessen should be withdrawn. Claim 23 depends from claim 22, and thereby includes the limitations of claim 22. For at least that reason, the Applicant submits that the Thiessen rejection under 35 U.S.C. § 102 to claim 23 should be withdrawn.

### **35 U.S.C. § 103**

In the Office Action dated July 8, 2005, claims 7-11, 15, 16, 32, and 38-40 are rejected under 35 U.S.C. § 103, as being anticipated by Thiessen.

The Applicant respectfully disagrees with the characterization of Thiessen in the rejection under 35 U.S.C. § 103. The characterizing language in the Office Action largely mirrors the language of the Applicant's claims. While the Applicant agrees that there may be certain similarities between Thiessen and the claimed invention, the Applicant disagrees with, and does not accept, many of the characterizations of Thiessen. To respond on an element-by-element basis to the characterizations in the rejection, the Applicant would have to describe in detail what Thiessen actually discloses for each recited characterized element of Thiessen, as compared to the claim language of the present disclosure that the Office Action virtually quoted to describe Thiessen.

Considering the scope and length of Thiessen that has been characterized using Applicant's own claim language, responding to the characterizations of Thiessen on an element-by-element basis would require a lengthy response. Instead, the Applicant will focus on certain distinctions between Thiessen and the presently claimed invention.

Thiessen discloses a computer-based method and apparatus for interactive computer-assisted negotiations. Applicant contends that Thiessen does not suggest negotiating a value of a contingent commitment, wherein the contingent commitments include at least one modal operator or quantifier, as claimed herein.

The Applicant thereby submits that claims 7-11, and 32, that depend from claim 1, are allowable over Thiessen for the same reason as described above with respect to the 35 U.S.C. 102 rejection.

Applicant agrees with the Office Action that Thiessen fails to show many claimed features (see, e.g., paragraphs 37, 40, 43, 46, 49, 52, 55, 58, 61, and 64). The Applicant

does not agree, however, (in the respective paragraphs that follow these paragraphs), that these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited since the claims have been previously amended to make the claims comply with method claim terminology, and as such the claims are indeed functional.

As per claims 15, 16, and 38-40, which depend from claim 14, the Applicant submits that Thiessen does not disclose, among other things, “performing a calculation using the one or more computing mechanisms to determine whether the determining the mutually acceptable price (also within the claim: for the one or more trading items) between the first agent and the second agent results in the mutually acceptable price”, which language is in claim 14. Once again, Applicant submits that Thiessen is directed at “a computer-based method and apparatus for assisting multiple parties involved in complex negotiations in reaching agreement that optimizes the individual and overall benefit to the parties” (Thiessen, C1, L9-13) and does not suggest using one or more computers to determine a mutually acceptable price for one or more trading items.

#### **OTHER REFERENCES CITED**

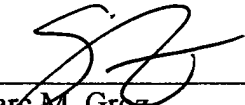
Attached to the Office Action dated July 8, 2005 is a “Notice of References Cited (PTO-892).” In addition to Thiessen, it lists US-2002/0052824 (Mahanti et al, hereinafter “Mahanti”). Despite being listed in said form PTO-892, Mahanti is not referred to anywhere in the body of the Office Action. Nonetheless, Applicant has reviewed Mahanti and submits that there is no use of contingent commitments, quantifiers, or modal operators; no valuation method employing multi-dimensional error reduction; and no method for determining a mutually acceptable price that is not part of a subsequent negotiation. Applicant submits that, for at least the above reasons, the patentability of the present invention is not affected by Mahanti.

**CONCLUSION**

In view of the forgoing remarks, Applicant respectfully requests reconsideration and allowance of the subject matter application including claims 1-23, and 28-41.

Respectfully Submitted,

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(Date)

  
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